



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## DECISION

**Dispute Codes:** OPR, MNR, MNSD and FF

### Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenant's door on August 18, 2009. The landlord also sought a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding.

In addition, I have exercised my discretion under section 64(3)(c) of the *Act* to permit the landlord to amend the application to request authorization to retain a portion of the security deposit in set off against any balance owed.

This matter was originally addressed as a direct request proceeding on September 8, 2009 on written submissions only but was adjourned to the present conference call hearing due to questions regarding proof of service of the Notice of Hearing.

Despite having been served with the Notice of Hearing served in person to an adult apparently resident in the rental unit, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

## **Issues to be Decided**

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order for the unpaid rent and filing fee and authorization to retain the security deposit in set off against the balance owed.

## **Background and Evidence**

This tenancy began on May 1, 2009. Rent is \$1,250 per month and the landlord holds a security deposit of \$625 paid on April 21, 2009.

The landlord gave evidence that the Notice to End Tenancy was served on August 19, 2009 when the tenant had rent a rent shortfall of \$25 for each of July and August. In the interim, the tenant had further rent shortfalls of \$25 for September and \$50.92 for October.

## **Analysis**

Section 46 of the *Act*, which deals with notice to end tenancy for unpaid rent, provides that a tenant may pay the overdue rent or make application for dispute resolution within five days of receiving the notice.

In this instance, I find that the tenant has not made application to dispute the Notice to End, the rent arrears was not paid within five days of receipt of the notice and the rent shortfall grew in September and October.

Therefore, the landlord requested, and I find he is entitled to, an Order of Possession effective two days from service of it upon the tenant.

I further find that the landlords are entitled to a recover the unpaid rent and filing fee for this proceeding and authorization to retain the amount owed from the security deposit as follows:

| <b>Tenant's Credits</b>                                    |                 |                 |
|--|-----------------|-----------------|
| Security deposit   | \$625.00        |                 |
| Interest Apr. 21, 2009 to date)                            | <u>0.00</u>     |                 |
| Sub total  | \$625.00        | \$625.00        |
| <b>Amount Owed to Landlord</b>                             |                 |                 |
| July rent shortfall  | \$25.00         |                 |
| August rent shortfall                                      | 25.00           |                 |
| September rent shortfall                                   | 25.00           |                 |
| October rent shortfall                                     | 50.92           |                 |
| Filing fee   | <u>50.00</u>    |                 |
| <b>Sub total (Amount landlord may retain from deposit)</b> | <b>\$175.92</b> | <b>- 175.92</b> |
| Balance of security deposit remaining                      |                 | \$449.08        |

## Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession effective two days from service of it on the tenant and I hereby authorize and order that the landlord may retain \$175.92 from the security deposit in satisfaction of unpaid rent.

The Order of Possession is enforceable through the Supreme Court of British Columbia.